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Dated: December 3, 2004

Signature: _____

(Michael R. Kim)

Docket No.: 30205/39511
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Seong Hwan Park et al.

Application No.: 10/723,485

Confirmation No.: 9548

Filed: November 26, 2003

Art Unit: 2813

For: METHOD OF MANUFACTURING
SEMICONDUCTOR DEVICE

Examiner: Thanh T. Nguyen

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement imposed in the office action mailed on November 16, 2004, applicants provisionally elect Group I, claims 1-13 and 15-16, with traverse. As set forth in detail below, applicants traverse this restriction requirement. Subject to that traversal and in accordance with the requirement of 37 C.F.R. § 1.143, applicants make the election of claims 1-13 and 15-16, provisionally. Reconsideration and withdrawal of the restriction requirement is, however, requested in view of the following remarks.

The M.P.E.P. clearly and unequivocally states that there are two criteria which must be met for a requirement for restriction to be proper; (1) the inventions must be independent or distinct as claimed; and, (2) there must be a serious burden on the examiner if restriction is not required. (M.P.E.P. § 803). In this instance, although the Office action argues that the groups of claims identified in the Office action are distinct, it fails to demonstrate that a serious burden would be placed on the Examiner if election were not required.

The applicants note that if there is a serious burden in the present application, it is on the applicant's assignee as a result of this restriction requirement. Unless the restriction requirement is withdrawn, the applicant's assignee must not only prosecute separate applications, which multiplies the cost of obtaining protection for the inventive subject matter, but it must also then pay separate maintenance fees for each of the issued patents. This problem is exacerbated by the recent increase in PTO fees. It is respectfully submitted that the burden of the expense incurred in order to obtain two different patents and the further expense in maintaining those patents suffered by the taxpayer, far outweigh any possible burden the Patent Office may incur as a result of simultaneously examining the claims of this application.

In summary, the Office action fails to address the second required criteria for restriction set forth in the M.P.E.P. In view of the following mandate, this failure renders the restriction requirement improper:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

(M.P.E.P. § 803)(emphasis added). Therefore, applicant requests that the requirement for restriction be withdrawn. Moreover, because the restriction requirement is incomplete for failing to address the second requirement specified in the M.P.E.P., the applicant has not been afforded a fair opportunity to respond and the restriction requirement cannot properly be made "Final."

Further, restricted claim 14 depends from claim 1. In view of this dependence, applicants respectfully submit that claims 1 and 14 should all be examined together.

An early action on the merits of both groups of claims is earnestly solicited.

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The Commissioner is authorized to charge any fee deficiency required by this paper,
or credit any overpayment, to Deposit Account No. 13-2855.

Dated: December 3, 2004

Respectfully submitted,

By 

Michael R. Hull

Registration No.: 35,902

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant